

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY M. NORTINGTON #193035,

Plaintiff,

Case No. 1:10-cv-424

v

HON. JANET T. NEFF

JIM ARMSTRONG et al.,

Defendants.

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 alleging various claims against numerous defendants, including Eighth Amendment claims for inhumane conditions of confinement and denial of medical care, and retaliation in violation of the First Amendment. The matter is presently before the Court on Plaintiff's objections (Dkt 566) to the Report and Recommendation (R & R) (Dkt 561) of the Magistrate Judge, recommending that this Court dismiss this case with prejudice for Plaintiff's continued violations of the Court's orders. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

This case has a lengthy history. As set forth in the Report and Recommendation recommending dismissal, this history has not been a productive one in resolving this case—a primary result of Plaintiff's obstinance, excessive and frivolous litigious conduct, and threatening and offensive filings. Over the course of nearly three-and-a-half years, Plaintiff has refused to

accept the Court's rulings, consuming an inordinate amount of the Court's time and resources in addressing repeated and duplicative appeals, objections, and motions for rehearing or reconsideration, a tactic well-familiar to both the Magistrate Judge and the undersigned. Of even greater concern, Plaintiff's focus has diverged from substantive legal claims to outrageous and offensive accusations and behavior in defiance of the Court. For the reasons well-stated in the Report and Recommendation, the Magistrate Judge recommends that this case be dismissed with prejudice under FED. R. CIV. P. 41(b) for Plaintiff's repeated failure to comply with this Court's orders.

Plaintiff's objection advances no meritorious claim of error in the Report and Recommendation. Plaintiff denies that he has failed to follow court orders and attributes the dismissal to possibly undue bias against him or retaliation (Obj. at 1, 17), characterizing the Court's failure to grant him relief on his First Amendment claims for proper medical care as the Court "becom[ing] a knowing accomplice to DEFENDANTS and DEFENSE COUNSEL in PREMEDITATED MURDER!!!" (*id.* at 2). Plaintiff's 35-page objection and exhibits are a continuation of the unacceptable conduct exemplified in filings that have led to the recommended dismissal of this case. Plaintiff's attempt to explain his conduct in this case as a result of cognitive dysfunction and a complication of his medical condition is unavailing (*id.* at 5). Likewise unavailing are Plaintiff's assertions that his alleged threats of biblical retribution were nothing more than religious figures of speech taken out of context by the Magistrate Judge (*id.* at 11-12). Plaintiff's further numerous assertions that the case history and facts set forth by the Magistrate Judge are false or patently fraudulent reflect Plaintiff's inability or refusal to recognize his inappropriate actions

before the Court. The Magistrate Judge properly concluded that dismissal of this case with prejudice under FED. R. CIV. P. 41(b) is warranted.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 566) are DENIED and the Report and Recommendation (Dkt 561) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that this case is DISMISSED **with prejudice**.

IT IS FURTHER ORDERED that the pending motions in this case are moot.

Dated: September 27, 2013

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge